BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF RON SALI PROPERTIES, INC. from the decisions of the Board of Equalization of Ada County for tax year 2007.	) APPEAL NOS. 07-A-2481,) 07-A-2482, 07-A-2483 AND) 07-A-2484) FINAL DECISION) AND ORDER

VACANT LAND APPEALS

THESE MATTERS came on for hearing November 20, 2007, in Boise, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs, Linda S. Pike, and David E. Kinghorn participated in this decision. Appellant Ron Sali appeared. Chief Deputy Assessor Tim Tallman and Appraiser Tina Winchester appeared for Respondent Ada County. These appeals are taken from decisions of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of properties described as Parcel Nos. R7695300010, R7695300020, R7695300030, and R7695300040.

The issue on appeal is the market value of four (4) vacant residential parcels. The decisions of the Ada County Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. R7695300010

Subject's assessed value is $675,000. Appellant requests the value be reduced to $100,000.

This subject property is an unimproved 12.935 acre residential lot located near Eagle, Idaho. Subject is part of a four-lot subdivision that totals 55.36 acres. The subdivision is part of a larger 240 acre parcel known as Three River Ranch. The subdivision was separated from the larger parcel and platted in November 2005. All lots in the subdivision have waterfront and a portion of each lot's acreage includes land covered by the lake. The only improvements on the

lots include an access road and landscaping.

Parcel No. R7695300020

Subject's assessed value is $675,000. Appellant requests the value be reduced to $100,000.

This subject property is an unimproved 11.102 acre residential lot located near Eagle, Idaho. Subject is part of the same four-lot subdivision referenced above.

Parcel No. R7695300030

Subject's assessed value is $675,000. Appellant requests the value be reduced to $100,000.

This subject property is an unimproved 10.143 acre residential lot located near Eagle, Idaho. Subject is part of the same four-lot subdivision referenced above.

Parcel No.R7695300040

Subject's assessed value is $675,000. Appellant requests the value be reduced to $100,000.

This subject property is an unimproved 20.001 acre residential lot located near Eagle, Idaho. Subject is part of the same four-lot subdivision referenced above.

Though each parcel was assessed individually, there were no notable differences between the lots (except acreage). Because both parties presented the same arguments for the lots and did not otherwise differentiate the subject parcels, we will not distinguish the properties for the purposes of this decision. All arguments presented for an individual lot will be considered to apply to each equally.

A brief history of the property revealed subjects were part of a larger 240 acre parcel, owned by Appellant since 1989. After sand and gravel mining operations concluded on the

subject 55 acres, Appellant created and platted a four-lot subdivision in November 2005.

Appellant's primary argument centered on subjects lack of sewer system, resulting in the lots being "unbuildable", and thus unmarketable. At the time the subdivision was platted, Appellant believed the City of Eagle was going to extend existing sewer lines to within approximately 1/4 mile of subjects. Appellant anticipated connecting the subdivision to city sewer services. Sometime during the summer or fall of 2006, these plans were abandoned by the city, leaving subjects without city sewer services.

A letter from a local engineer was submitted. In the opinion of the engineer, the subject lots were not marketable "until such time when the sewer treatment and disposal facilities are complete and operational." Appellant agreed and argued nobody would buy a lot that could not be built upon.

Appellant noted subjects were placed on the market in the summer of 2006, prior to learning city sewer services would be extended to the subdivision. Respondent's evidence revealed lot 3 was placed on the market for $1,800,000. After learning the city abandoned plans to extend the sewer line, Appellant removed the lots from the market. Appellant believed if the sewer had been extended to subjects, the listing price would have been a reasonable market value for the lots. Appellant remains hopeful city sewer will be provided to subjects in the coming years, but argued the current lack of services should significantly discount the value of the parcels.

Also referenced by Appellant was the cost associated with maintaining the current landscaping. As noted above, subjects were fully landscaped and improved with an access road. It was estimated the annual cost of upkeep was between $75,000 and $80,000. Appellant argued subjects actually had a negative value as a result.

Respondent first referenced the summer 2006 listing price of lot 3 for $1,800,000 and noted subjects were only assessed $675,000 each. It was argued this indicated Appellant believed subjects' value to be much more than assessed.

Respondent next addressed subject's lack of city sewer services. Respondent explained that in order to plat a subdivision, a number of requirements had to be met. Germane to this case was the requirement that adequate waste removal systems had to be approved prior to recording a subdivision plat. Respondent obtained a letter dated June 2005 from the Central District Health Department addressed to Ada County Recorder, David Navarro, concerning the subject subdivision. The letter indicated a pressurized sand mound septic system had been approved for the subdivision, provided it was placed "in the pre-approved engineered locations." Respondent argued the approval of such a septic system removed the necessity of city sewer services, and indeed made the subject lots buildable. Respondent contended Appellant's decision to wait until city sewer was extended to subject's area, rather than build a pressurized sand mound septic system, was a personal choice and not the result of government restrictions. As such, Respondent reasoned subjects should not be valued as nonbuildable lots.

Appellant addressed Respondent's argument by explaining the pre-approved location for the pressurized sand mound septic system was actually on the adjacent parcel to the north (also owned by Appellant). Appellant testified that during the platting process, the Central District Health Department notified Appellant that changes to septic system requirements were being proposed and the subdivision would have to comply with the new guidelines. Most notably, the setback requirement was being increased from 200 feet to 300 feet. Appellant noted construction of the subdivision was already well under way and changes in the setback requirement came to light after it was too late to modify development plans. Appellant contended

there was no location in the subdivision that would accommodate the new setback requirements.

In the effort to get the subdivision plat approved without further delay, Appellant submitted plans to build the septic system on the adjacent north parcel. It was argued this change was made for the sole purpose of getting the plat recorded and there were no plans to actually build the septic system on the adjacent parcel. Appellant reasoned because the septic system could not actually be built without encumbering the adjacent lot, subjects were left unbuildable and should be valued accordingly.

Respondent also provided eight (8) unimproved sales from subdivisions in subjects' area. All sales were argued to be similar to subjects in terms of amenities (i.e. portion of lots included land covered by lakes or waterways). Sales 1 and 2 were located in Moon Lake Ranch. Respondent submitted a letter from Appellant addressed to the County Assessor regarding subjects' 2006 assessments. Respondent pointed to item #2 in the letter where Appellant argued lots in Moon Lake Ranch were comparable to subjects and advocated their use as comparables by which to value subjects. Sale 1 was a 5.136 acre bare lot that sold in January 2006 for $595,000. Respondent noted this lot re-sold in February 2007 for $675,000. Sale 2 involved a 3.829 acre lot that sold in September 2006 for $740,000.

Sales 3 and 4 were located in a subdivision near subjects. The lots were 10 acres and 5.015 acres and sold for $860,000 and $699,000, respectively. Sale 3 occurred in February 2005 and Sale 4 transpired in July 2006. Respondent pointed out these properties did not have access to city sewer services and would thus require individual septic systems in order to be considered buildable; much like Appellant's claim regarding subjects.

Sales 5, 6, 7, and 8 involved lots between .948 and 1.829 acres that sold between

$650,000 and $800,000. It was noted, two (2) of these lots sold in 2006, while the remaining two (2) parcels sold in January 2007.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For taxation purposes, Idaho requires property be assessed at market value, as defined in Idaho Code § 63-201 (10):

> "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Rather than presenting recent sales of like property (i.e. the market data approach to value), Appellant instead focused on subjects' detriments and asked this Board to reduce their respective assessments on that basis. Specifically, Appellant contended subjects' status as unbuildable lots, should result in a much lower value than the 2007 assessments.

Appellant claimed changes made to the setback guidelines concerning septic systems rendered subjects unbuildable. Appellant was notified of the proposed setback change from 200 feet to 300 feet sometime during the construction and platting of subjects' subdivision. In order to avoid costly delays, Appellant submitted plans to build a pressurized sand mound septic system on the adjacent property to the north. The revised plans were subsequently approved by all the necessary government officials and were recorded. Appellant testified there was never

any intention to actually build the septic system on the adjacent property as approved. Appellant believed the City of Eagle would be extending the existing sewer line to provide service to subjects and the revised septic plans were only submitted to County officials in an effort to navigate the subdivision through all the necessary approval channels.

Respondent challenged subjects' characterization as unbuildable. In a letter to the Ada County Recorder dated June 6, 2005, the Central District Health Department indicated plans to build a pressurized sand mound septic system were approved. Respondent argued this defeated Appellant's claim that subjects were unbuildable. It was contended any restrictions from obtaining building permits were the result of Appellant's own actions, not obstacles place by governmental restrictions. Respondent maintained subjects are buildable and Appellant's choice to wait until city sewer services are extended to subject's area rather than install a septic system as approved, should not result in a lower value for subjects.

The facts of this case present an interesting question for the Board to consider. Whether Appellant's voluntary choice not to install a septic system, and thus make subjects unbuildable, should result in the lots being valued as such. We sympathize with Appellant's position that changes in setback guidelines during the development of the subdivision caused plans to be changed mid-stream. Troubling, however, is Appellant's admission the revised septic plans were simply proposed in an effort to get the subdivision platted and recorded without delay. We are inclined to agree with Respondent that Appellant has chosen to keep subjects unbuildable and as such, must bear the burden of that choice. Indeed, there is nothing preventing Appellant from building a suitable septic system and thus marketing the lots for sale, other than his wish not to encumber the adjacent north lot, which he also owns.

Even if we were to ignore Appellant's choice to wait for city sewer services to be extended

to subjects, Respondent presented two (2) lot sales with the same "encumbrance" as subjects. In other words, private septic systems would need to be installed on these lots before a building permit could be secured. The sales involved 5.015 and 10 acre bare lots that sold for $699,000 and $860,000, respectively. The five acre lot sold in July 2006 and the other property sold in February 2005. The 2006 sale involved a lot less than half the size of any of the subject lots, yet sold for more than subjects' assessed values.

Also compelling were the two (2) sales from Moon Lake Ranch subdivision. In previous correspondence with the County, Appellant argued this subdivision to be similar to subjects. The sales involved lots of 5.136 and 3.829 acres that sold for $595,000 and $740,000, respectively. These lots are notably smaller than subject yet sold for close to or more than subjects' assessed values.

These four (4) sales support Respondent's value position concerning subjects. In most cases, the lots were smaller than subjects, yet sold in excess of subjects' assessed values. Two (2) sales suffered from the same sewer restrictions as subjects and the other two others (2) were from the very subdivision advocated by Appellant to be similar to subjects. We need not even discuss the remaining four (4) sales, though examination of these sales leads to similar a conclusion.

For the reasons outlined above, the Board finds Respondent's value position more reasonable and better supported in the record. While we do sympathize with Appellant's position that development plans had to be changed mid-course to comply with changing building requirements, there is nothing to prevent Appellant from installing a septic system other than his choice to wait until city sewer services are extended to subjects. This is a business decision and Appellant must bear the burden of that decision. Accordingly, the decisions of the Ada County

Board of Equalization are affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Ada County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed.

MAILED April 3, 2008